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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,131	03/11/2004	Leo J. Romanczyk JR.	5677-211	5849

26345 7590 07/05/2006

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EXAMINER

SACKEY, EBENEZER O

ART UNIT PAPER NUMBER

1626

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/798,131

Applicant(s)

ROMANCZYK ET AL.

Examiner

EBENEZER SACKY

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 59-73 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 59-73 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/03/04, 8/30/04, 3/16/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

Claims 59- 73 are pending.

Response to Restriction

Applicant's election with traverse of Group 1 claims 59-73 in the reply filed on 04/12/06 is acknowledged. The traversal is on the ground(s) that the it would not be an undue burden to examine Group IV, with Group I because they only differ by the presence of protecting groups on the phenolic hydroxyl groups. This is not found persuasive because each of the various groups can support their own patents. Additionally, a reference, which anticipates one group, will not render obvious another group.

The requirement is still deemed proper and is therefore made FINAL.

Information Disclosure Statement

Receipt of the Information Disclosure Statement filed 05/03/04, 08/30/04 and 03/16/05 respectively is acknowledged and has been entered into the file. Signed copies of the 1449 are attached herewith.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 59- 67 and 68-73 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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1. In claim 59 and claims dependent therefrom, the phrase "the bottom mer may have the halo blocking group" is indefinite because the phrase suggests that the bottom mer may not have the halo-blocking group.
2. Claim 68 and claims dependent therefrom refers to "the A ring of the protected mer," there is lack of antecedent base for this limitation since no ring system are present in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 59-63, 65-68 are rejected under 35 U.S.C. 102(e) as being anticipated by Romanczyk, Jr. et al., (U.S. Patent number 6,864,377).

Applicants claim a process for preparing a partially protected procyanidin dimer which comprises the steps of protecting each phenolic hydroxyl group of an epicatechin or catechin monomer, activating the monomer, catalytically coupling the monomer to arrive at the protected procyaniding dimer.

Romanczyk, Jr. et al., disclose an identical preparation of preparation of procyanidin dimer. See column 28, lines 35-65, bridging column 29 lines 1-28.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to E. Sackey whose telephone number is (571) 272-0704.

The examiner can normally be reached on Monday-Friday from 7:30 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane, can be reached on (571) 272-0699. The fax phone number for this Group is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

EOS
June 16, 2006

for 

Joseph K. McKane
Supervisory Patent Examiner
Art Unit 1626, Group 1600
Technology Center 1